

REMARKS

Claims 1-30 were originally filed in the present application.

Claims 1-30 are pending in the present application.

Claims 1-30 were rejected in the August 17, 2007 Office Action.

No claims have been allowed.

No claims are amendeded herein.

Claims 1-30 remain in the present application.

Reconsideration of the claims is respectfully requested.

In Section 2 of the August 17, 2007 Office Action, the Examiner rejected Claims 1, 6, 16 and 21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,937,019 to *Padovani* (hereafter, simply “Padovani”) in view of U.S. Patent No. 6,804,522 to *Lindskog, et al.* (hereafter, simply “Lindskog”) and further in view of U.S. Patent No. 6,845,238 to *Müller* (hereafter, simply “Müller”). The Applicants respectfully traverse the rejection.

When applying 35 U.S.C. 103, the claimed invention must be considered as a whole. *See MPEP § 2141(II)*. In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *MPEP § 2141.02(I), citing Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983)*. Indeed, The Supreme Court has recently held,

[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.

Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (U.S., 2007).

The Applicants respectfully submit that the rejection of Claims 1, 6, 16 and 21 over the combination of Padovani, Lindskog and Müller is improper because it addresses individual differences between the cited references and the claim, rather than considering the claim as a whole.

Padovani describes a communication network with co-located base stations under the control of different communication systems. *See Padovani, col. 5, lines 13-19*. Lindskog teaches that sectored and omni antenna systems may be used in base stations of a single communication network using a single standard to reduce interference between adjacent base stations utilizing the same frequencies. *See Lindskog, col. 1, lines 21-40*. Müller describes a communication network performing a handoff of a mobile station from a base station on a first frequency to a base station on another frequency. *See Müller, co. 4, lines 6-12*.

The claims recite a base station and method that utilize a sectored antenna system under a first standard on a first frequency assignment and an omni antenna system under a second standard on a second frequency assignment. The Office Action finds a base station with first and second standards in Padovani, sectored and omni antenna systems in Lindskog and a handoff from a first frequency to a second frequency in Müller, but fails to show why a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.

A person of skill in the art applying Lindskog to Padovani might be motivated to provide either or both of Padovani's co-located base stations with Lindskog's sectored and omni antenna. But there is no problem to be solved in Padovani, nor suggestion or motivation in either of the references that would lead such a person to use the sectored antenna in one base station and the omni antenna in the other base station.

Furthermore, Lindskog teaches the benefits of using a combination of a sectored antenna system and an omni antenna system on the same frequency in a single base station. Müller's teaching of performing a handoff of a mobile station from a base station on a first frequency to a base station on a second frequency, though, would not lead the person of skill in the art to transcend Lindskog to use a sectored antenna on a first frequency assignment and an omni antenna on a second frequency assignment.

In summary, Padovani, Lindskog and Müller fail to describe all the elements of Claims 1, 6, 16 and 21 and the Office Action fails to consider the claimed invention as a whole and identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements of Padovani, Lindskog and Müller in the way the claimed invention of the present application does. For at least these reasons, Claims 1, 6, 16 and 21 are patentable over the cited references.

In Section 3 of the August 17, 2007 Office Action, the Examiner rejected Claims 2, 7, 17 and 22 under 35 U.S.C. §103(a) as being unpatentable over the Padovani, Lindskog and Müller references, and further in view of U.S. Patent No. 6,112,088 to *Haartsen* (hereafter, simply

“Haartsen”). In Section 4 of the August 17, 2007 Office Action, the Examiner rejected Claims 3, 8, 18 and 23 under 35 U.S.C. §103(a) as being unpatentable over the Padovani, Lindskog and Müller references, and further in view of U.S. Patent No. 6,141,566 to *Gerdisch, et al.* (hereafter, simply “Gerdisch”). In Section 5 of the August 17, 2007 Office Action, the Examiner rejected Claims 4, 5, 9, 10, 19, 20, 24 and 25 under 35 U.S.C. §103(a) as being unpatentable over the Padovani, Lindskog and Müller references, and further in view of U.S. Patent Application Publication No. 2003/0123479 to *Lee, et al.* (hereafter, simply “Lee”). In Section 6 of the August 17, 2007 Office Action, the Examiner rejected Claims 11, 12, 13, 26, 27 and 28 under 35 U.S.C. §103(a) as being unpatentable over Padovani, Lindskog, Müller and Haartsen and further in view of Gerdisch. In Section 7 of the August 17, 2007 Office Action, the Examiner rejected Claims 14, 15, 29 and 30 under 35 U.S.C. §103(a) as being unpatentable over Padovani, Lindskog, Müller and Haartsen and further in view of Gerdisch. The Applicants respectfully traverse the rejections.

As argued with regard to the rejection of Claims 1, 6, 16 and 21, the combination of Padovani, Lindskog and Müller fails to describe all the elements of Claims 1, 6, 16 and 21 and the Office Action fails to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements of Padovani, Lindskog and Müller in the way the claimed invention of the present application does. The Applicants respectfully submit that the Haartsen, Gerdisch and Lee references do nothing to overcome the shortcomings of the rejection of Claims 1, 6, 16 and 21. For at least these reasons, Claims 2-5, 7-15, 17-20 and 22-30 are patentable over the cited references.

The Applicants respectfully request that the Examiner withdraw the § 103 rejection of the Claims 1-30..

The Applicant also disagrees with the Examiner's rejections of Claims 1-30 based on additional misdescriptions and/or misapplications of the Padovani, Lindskog, Müller, Haartsen, Gerdisch and Lee references to at least some of Claims 1-30. However, the Applicant's arguments regarding those other shortcomings of the Padovani, Lindskog, Müller, Haartsen, Gerdisch and Lee references are moot in view of the arguments above. The Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of the Padovani, Lindskog, Müller, Haartsen, Gerdisch and Lee references to the claims of the present application, including the right to dispute assertions made by the Examiner in the August 17, 2007 Office Action.

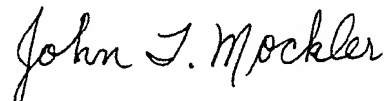
SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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